

**U.S. District Court
Northern District of Ohio (Akron)
CIVIL DOCKET FOR CASE #: 5:11-cv-00267-BYP
Internal Use Only**

GoJo Industries, Inc. v. Limited Brands, Inc. et al
Assigned to: Judge Benita Y. Pearson
Cause: 35:271 Patent Infringement

Date Filed: 02/07/2011
Date Terminated: 05/05/2011
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

GoJo Industries, Inc.

Patent #
D487,660

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GOJO INDUSTRIES, INC.,
One GOJO Plaza, Suite 500
Akron, Ohio 44311,

Plaintiff

v.

LIMITED BRANDS, INC.
3 Limited Parkway
Columbus, Ohio 43230,

and

**BATH & BODY WORKS BRAND
MANAGEMENT, INC.,**
7 Limited Parkway
Reynoldsburg, Ohio 43068

Defendants.

COMPLAINT

Now comes Plaintiff, GOJO Industries, Inc. ("GOJO"), and for its Complaint against Limited Brands, Inc. ("Limited Brands") and Bath & Body Works Brand Management, Inc., ("Brand Management"), alleges as follows:

PARTIES

1. GOJO is a corporation organized and existing under the laws of the State of Ohio, having a principal place of business at One GOJO Plaza, Suite 500, Akron, Ohio 44311.
2. Upon information and belief, Limited Brands is a corporation organized and existing under the laws of the state of Delaware, having a principal place of business at 3 Limited Parkway, Columbus, Ohio 43230.

3. Upon information and belief, Brand Management is a corporation organized and existing under the laws of the state of Delaware, doing business under the fictitious name "Bath & Body Works," and having a principal place of business at 7 Limited Parkway, Reynoldsburg, Ohio 43068.

4. Upon information and belief, Brand Management is a wholly owned subsidiary of Limited Brands.

5. Upon information and belief, Douglas L. Williams, is the registered agent for service of process for Limited Brands and Brand Management, and the address for service of process is 3 Limited Parkway, Columbus, Ohio 43230.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, specifically the Patent Act of 1952, 35 U.S.C. §1 *et seq.* Subject matter jurisdiction is founded under 28 U.S.C. §1331, §1338(a) and 35 U.S.C. §281.

7. This Court has personal jurisdiction over Limited Brands because Limited Brands has transacted business within this district and, upon information and belief, has caused tortious injury to GOJO by the acts complained of herein within this district.

8. This Court has personal jurisdiction over Brand Management because Brand Management has transacted business within this district and, upon information and belief, has caused tortious injury to GOJO by acts complained of herein within this district.

9. Venue is proper in this district pursuant to 28 U.S.C. §1400(b) because Limited Brands and Brand Management have committed acts of infringement and have a regular and established

place of business in this district. In addition, venue is proper in this district pursuant to 28 U.S.C. §1400(b) because Limited Brands and Brand Management reside within the Northern District of Ohio as residence is defined in 28 U.S.C. §1391(c).

PATENT INFRINGEMENT

7. U.S. Patent No. D487,660, entitled "Bottle Carrier" ("the '660 patent"), duly and legally issued on March 23, 2004, to Richard C. Sayers, Richard A. Holmes, and Melissa Ann Pitts, who assigned it to Joseph S. Kanfer. Joseph S. Kanfer now is and at all times since the issue thereof has been the sole owner of the '660 patent. Joseph S. Kanfer has licensed said patent to GOJO exclusively with rights of enforcement. A true and accurate copy of the '660 patent is attached hereto as Exhibit A.

8. Without the consent of GOJO and in disregard of its rights, Limited Brands and Brand Management have made, used, sold, and/or offered to sell within this district and elsewhere within the United States, and/or imported into the United States, bottle carriers that embody the ornamental design from the bottle carrier as shown and described in the '660 patent ("Accused Products"). One such accused product is pictured in Exhibit B attached hereto and incorporated herein by reference.

9. Without the consent of GOJO and in disregard of its rights, Limited Brands and Brand Management have induced others to make, use, sell or offer to sell the Accused Products within this district and elsewhere within the United States.

10. By their conduct as alleged above, Limited Brands and Brand Management have infringed the '660 patent in violation of 35 U.S.C. §§271(a).

11. By their conduct as alleged above, Limited Brands and Brand Management have actively induced others to infringe the '660 patent in violation of 35 U.S.C. §271(b).

12. By the conduct of Limited Brands and Brand Management as alleged above, GOJO has been damaged;

13. GOJO is without adequate remedy as to the unlawful acts of Limited Brands and Brand Management unless the continuance of the infringement is enjoined by this Court.

14. Upon information and belief, Limited Brands and Brand Management had actual notice of the existence of the '660 patent at the time of engaging infringing activity.

15. Upon information and belief, the conduct of Limited Brands and Brand Management as alleged above, has been willful, intentional, and in conscious disregard of GOJO's rights.

PRAYER FOR RELIEF

Wherefore, GOJO prays for judgment against Limited Brands and Brand Management as follows:

- (a) that Limited Brands and Brand Management be adjudged to have infringed the '660 patent;
- (b) that Limited Brands and Brand Management be adjudged to have actively induced others to infringe the '660 patent;
- (c) that Limited Brands and Brand Management and those controlled by Limited Brands and Brand Management be preliminarily and permanently enjoined against further infringement of the '660 patent;

- (d) that an accounting for profits and damages be ordered, or that GOJO be awarded such compensatory damages in an amount adequate to compensate GOJO for the infringement, but in no event less than a reasonable royalty;
- (e) that GOJO be awarded treble damages pursuant to 35 U.S.C. §284;
- (f) that in view of the deliberate and intentional acts of Limited Brands and Brand Management, the case be declared exceptional and GOJO be awarded reasonable attorney fees pursuant to 35 U.S.C. §285;
- (g) that GOJO have and recover the costs of this action; and
- (h) that GOJO be awarded such other and further relief as the Court may deem just and equitable.

JURY DEMAND

A trial by jury of the maximum number of jurors allowed by law is hereby demanded.

GOJO INDUSTRIES, INC.

By: /s:/Ray L. Weber

Ray L. Weber (0006497)

Laura J. Gentilcore (0034702)

Mark L. Weber (0072078)

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FOR THE NORTHERN DISTRICT OF OHIO
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GOJO INDUSTRIES, INC.,

Civil No. 5:11-cv-00267-BYP

Plaintiff,

v.

Judge Benita Y. Pearson

LIMITED BRANDS, INC.

and

BATH & BODY WORKS BRAND
MANAGEMENT, INC.,

Defendants.

NOTICE OF DISMISSAL

Now comes Plaintiff GOJO Industries, Inc. and, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), dismisses this action with prejudice, Defendants having neither answered nor served a motion for summary judgment herein.

Respectfully submitted,

GOJO INDUSTRIES, INC.

By: /s:/Ray L. Weber

Ray L. Weber (0006497)

Laura J. Gentilcore (0034702)

Mark L. Weber (0072078)

Renner, Kenner, Greive, Bobak, Taylor & Weber

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CERTIFICATE OF SERVICE

Defendants having not appeared in this action, and therefore not being subject to electronic service through the Court's electronic filing system, a true copy of the foregoing **NOTICE OF DISMISSAL** was served by first class mail, postage prepaid, this 26th day of April, 2011, upon counsel for Defendants:

Michael J. Zinna
WARD & OLIVO
380 Madison Avenue
New York, New York 10017.

/s/Ray L. Weber